G R. S IX-5]

Previous references.

Rev. File No 140-19

1919.

(Municipal)

Serial Nos. 1-42

Later references.

Rev 140-19(2)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 142

Part B for Kalimpong

SUBJECT

Unauthorised grant of a Site to a private person in Kalimpong by D.C.

To The D.C., Darjeeling.

No R 5728 dt 4/12/19

With reference to the correspondence ending with D.O. No. 1 dated the 3rd instant regarding the unauthorised grant of a valuable Site by the Kalimpong Municipality, I am directed to state that Govt have no power to entertain any appeal in the matter for reasons given and that Govt are taking necessary steps to rectify the effect of the unauthorised alienation.

W D 1250—6/19—50,000 28-1-19

Forwd 26/2/19

G R. S III—1] 1919

GENERAL AND REVENUE SECRETARIAT

(mail)

NOTES

File No 146 19

FILE HEADING

Unauthorized grant of a site by a private person in the Davangere Town

From The Deputy Comr, Chitaldrug

No. Rly 466 14 / 18-19 Dated 21-11-19 Received 23-11-19

Diary No. 4166 | Enclos 1 Pet & Var papers Spare Copies | Serial No 1

BRIEF ABSTRACT OF LETTER

Reports an irregularity in the free grant of a valuable site by the Davangere Municipal Council to a private person in an important pt in the Bangalore-Dvgr rd. Rq to build a cart stand which will be an eyesore to the public and requests that necessary orders may be passed by Govt- a trace to such site being allotted for better purposes in future

NOTES AND ORDERS

rec'd briefs from Asst Secy in note being prepared, on 5/12/19

A

1 The facts of the case are —

Mr M Shadakshariappa, merchant, Davangere (also Municipal Councillor & District Board member) h applied on 1-6-1916 for the grant of a site (S nos 21 & 22) on Bangalore-Shimoga road at a Concession rate for

NOTES—First Sheet

2
0 (

(G. R. S III 2)

General and Revenue Secretariat

ml File No 1160 of 1919

Serial No

B

the Construction of a public cart-road with a view to memorialising the two deputies relatives, the Municipal Council resolved in their meeting of 17-1-1917 to make a free grant of the sole for the purpose and the sale has not been actually made over to the petitioners & the terms to be attached to the free grant were agreed upon in the Consideration of the Municipal Council

II) The matter then came to the notice of the Deputy Comr who on having approved of the proposal ordered the Municipal Council to levy the value of a License from the petitioners

C

vide D.O. letter of 30-5-19 addressed to the President of the Municipality

D

III) A mutual agreement dated 27-7-19 executed by the petitioners was then obtained by the Municipality and a free License to remove the sole was issued by the President & the petitioners on 22-10-19

E

2 The Deputy Comr appears to have taken action in the matter under sec 173(4) of the Municipal Regulation & then referred the case to the orders as it is not dealing under sec 40 but was of opinion that there was a sale in favour of the petitioners. Coming to the section it is the construction of a clear table drain for the main cart-road undertaken by the petitioners which is not terminable by the Municipality ~~or~~ interfere the Deputy Comr has not taken action under sec 174 ~~for the forfeiture under this section either~~ ~~it is doubtful whether Govt Comr can interfere in the case~~

It is therefore for consideration

NOTE—Contn sheet

Exhibit C

G R S III 2]

General and Revenue Secretariat | mL File No 140 of 1919

Serial No

~~Whether the Govt may intervene in the case under Sec 180 when Grant dec 180 under the powers vested in them under~~ upon generally to all matters of Mun[l] A[c] institution ~~the~~ ~~keeping upon the others whether for a~~ ~~fresh grant the decision of the Municipal authorities~~ ~~the above Contemplated~~

B

3 Next I will in the records the original proceedings of the Municipal Council relating to the free grant of the toll but only refer to it for the purpose. It is also clear from the records that the factory of the petitioner being set also opposite the Cart stand in question should be removed from the

D + G

attention is also invited to Clause 6 of the Municipal under which the management of the Cart stand & the rest house is to be under the Municipal Council

F

Mun[l] Council the trustees the petitioner has named & appointed the Municipal Council originally proposed that the trustees should transfer the Municipal properties to which the latter demurred & put the same mortgaged as above as if the trust-property is a private one & making the control of the Municipal Commerce nominal

KP
7/12/19 It Please see sections 173 & 174 of the Regn Act which provide for cases in which the D C may intervene in connection with the Mul administration These sections require the adoption of certain proceedings according

NOTE—Contn sheet

41 d4

G. R. S. III 2]

General and Revenue Secretariat | ml File No 140 of 1919

Serial No

the provisions of the clauses of sec 173 & subsections of sec 174 before the submission of the case for the orders of Govt. This has not been done but the D C has simply forwarded the correspondence without hearing what the Municipality has to say on the objections he has taken to the construction of the cart-road. The Municipality have made a part of the road & the previous D C has no jurisdiction in favour of the part as well as the construction of the road because has been painted on the stone & apparently of the previous D Comm's do in the file. It is a matter for consideration whether there are sufficient grounds for Govt to interfere in this case, and whether it is not desirable to ask the D C to state his objections to the Municipality and ascertain what they have to say. Dasappa is a professional man and the Council may resent [illegible] in the manner

ML 12/12

(Rev Sec²)

5 When, as in the present instance, the Govt Court proposes to interfere with the action of a statutory Local Body, it is his duty to point out specifically how the interference

NOTE—Contn sheet

4164

G. R. S. III-2]

General and Revenue Secretariat.

Rl File No 1 Rev of 1919

Serial No

is legally warranted, along with definite recommendations as to the form & manner of the interference proposed. It would not do to simply describe an act of the Local Body which the Dt Court considers to be "high handed & unwarrantable" and to request Govt to "pass such orders as may be deemed proper" This may I think be pointed out to the Dt Court for a further report, if necessary.

2nd December

19 12 19

2016
28-12-19

b) Under Section 173(1)(c), Appeals can be taken to the Revenue Court which is Court above the Court which has been complained against and that has been completed. Under this section the Same Section this Court can ask the Municipal Council to reverse any appointment which he may pursuant thereto made to the Council. It may be argued that the Council is a Court for example the pulling down of a Chairman

NOTE—Contin. sheet.

6

WBh 7

G R S 111 2]

General and Revenue Secretariat

File No WBh of 1919

Serial No

[illegible] a dang's cause neither has passed [illegible] has not been [illegible] proof of to whom has passed in the Regulation enabling [illegible] with bonds [illegible] Municipality - has dang 2 such a thing? The subsequent Section 174 which provides for persons [illegible] in such cases with refers to dang of a thing which is about to be done or is being done but is silent as regard the executed acts - therefore it seems that has / with Com not subscribed - ask the Municipality to undo a thing which has already been done — The proof [illegible] is not for from doubt. The Bonds may be cancelled proof instrument is very important. [illegible]

24/12/19

1) Forwarded with compliments Bhagat as for favour of opinion

16.12.19

By order
[illegible]
For Secy

23/12/19.

8) In my opinion the wording of Section 173 "of anything which is about to be done or is being done

O. 65 of 19
26-12-19
Rec Secy
SJH 19
M47/19 20
3/1/1920

Note—Contn sheet

Serial No

by such Municipal Council."
clearly implies that it refers to matters that are not incomplete and not to what has already been done or executed.

9) Section 174 goes a step further and authorizes the Dy Commr to prohibit the doing of anything ordered or permitted to be done by the Municipal Council, of course only in the cases and under the conditions expressly referred to therein, having regard to the urgency and the serious nature of the consequences resulting. Section 174 may therefore be so interpreted as to cover cases where anything is being done in pursuance of orders or resolutions passed by the Council; but the scope of such interference is limited as stated above. Section 175 is similarly in the nature of Mandatory Injunctions that could be issued or executed under certain special circumstances.

10) Part the facts of the case do not bring it under section 174

NOTE—Contn sheet

Serial No

the case
174 and if at all, comes under section 173; but as all that had to be done by the Municipal Council has already been done, nothing further is possible by way of proceedings under section 173.

11) The disposal of the site in question is one well within the powers of the Municipal Council and the final action taken by that body was evidently not voluntary but at the suggestion of the then Deputy Commissioner (vide his D.O. dated 30-5-1919). So the only question whether, when the Govt not only approved the proposed course but also recommended the early adoption of that course, it is now open to his successor to take action under section 173.

12) One point may however be incidentally noticed as to whether all the formalities by section 40 of the Regulation, in the question of the sanction of have been complied with. It is

The

NOTE—Contn. sheet

4164 (9 C

G. R. S. 111-2]

General and Revenue Secretariat

M File No Rec of 1917

Serial No

there is only a matter which concerns the Municipal Council to whom it is open to plead, under subsection 7 thereof, that the grant of the site is not binding on that Statutory body, if in fact the requirements laid down by section 40 have not been fulfilled. As this question is not before me it is unnecessary for me to discuss this aspect of the case any further.

(Sd) Chunilal
Government Advocate
3/1/1920

Sir

Submitted with the opinion of the Govt Ad

6/1/20 Respectfully see para 6 supra

MK 7/20

Sd 6/1/20

Second member)

3211 7-1-20

15 In my opinion may be argued that resolution by the said Municipality of Durban passed to sale has been passed effectively but I do not think we powers to interfere under sections 173-174 as the said sections do not refer to matters which may be left to the supervision of the Municipal Council or there is a default in the Municipal Council

Note—Contn. sheet

WBG

G R S III 2]

General and Revenue Secretariat | MC File No 160 of 1917

Serial No

which has not been taken steps to rectify at an early date —

16 A draft may be submitted early amending such 174 orders - 177 Municipal Regulations

LSG with papers

22/1

Draft

17 Draft submitted with reference to para 15 above. After issue of the draft these papers will be transferred to the L S G section for necessary action being taken re amendment of the section or sections referred to above (para 16).

KP
27/1/20 - 27/1

17 Draft issued

2 In the Chamberlain's No R 8720 dated 20 States that Govt have no power to interfere in the matter for reasons & that Govt are taking necessary steps to rectify the defects in the Act &

20 The papers may now be transferred to the L S G section for taking further action with reference to para 18 above. Perhaps the papers may now be recorded & further action taken on a separate file necessary entries being taken hereon.

KP
4/2/20

L S G
Dd
4/2

NOTE—Contn sheet

Office of the Deputy Commiss
Chitaldrug District
Dated Chitaldrug, 21st November 1919

4164
25-11-19

Rl 140-17-1

S. Venkata Rao Esquire B A ,
Deputy Commissioner,
C H I T A L D R U G

B Ramaswamaiya Esquire B A, B L ,
Secretary to the Government of
H H the Maharaja of Mysore,
Revenue Department, Bangalore

In forwarding herewith a file of Kannada correspondence a sketch received from the President of the Davangere Municipa- in the matter of a free grant of a site to one Mr Shadakshara Davangere for constructing a cart-stand for the use of the vellers, I have the honor to state that the site granted free by municipality for the aforesaid purpose appears to be a very uable one costing more than a thousand rupees, more on account its situation in an important place on the Bangalore-Dharwar The municipal council having been requested to state the umstances necessitating such a grant without the sanction of ernment, an evasive reply was sent that at the time of the grant value of the site was less than Rs 200 I referred the matter to Assistant Commissioner, Davangere Sub Division for opinion as to actual value of the site He reports that the present value of site is estimated at Rs 2000 but that the original value of it is ed to have been not more than 150 owing to the rugged condition of site before its grant by the municipality I am not however d to believe that the site in question existing at such an ant place was so rugged before its grant as to admit of such er-estimated value There is nothing on record to show that the was duly valued at the time of its grant by the municipality and seen that the construction of the cart-stand thereon was allowed before a license was granted for the same I am therefore

4

13800 TD 141—GPS—12,500—25-10-2.

1917

From The Deputy Commissioner
Chitaldrug Division

To The Secretary to Government
Revenue Department

Dated 21st

Despatched November 1917

Received

General No. Refe 1165 dt 9-10-17
No.

Enclosure No. One file of
papers & a sketch

Submitting orders of
Govt in the matter of
the manthoppu pound
for a valuable gift by
the Municipal council
of Bangalore, for the
construction of a
cart stand on the
Bangalore-Dharwar Road

constrained to point out that this is one of the instances in which the municipal council of Davangere have acted rather in high-handed and unauthorised manner and are trying to justify their action when the irregularity in the procedure was taken notice of

As the cart-stand on the said site is an eye sore to the public, I request that Government may be pleased to pass such orders as may be deemed proper so that the most eligible sites in the flourishing town of Davangere may be utilised for better purposes

I have the honor to be,

Sir,

Your most obedient servant,

Deputy Commissioner,

Chitaldrug District

S/

G. R. S. VI—G/32]

SUBJECT

Diary No. of letter replied to 4164

GENERAL AND REVENUE SECRETARIAT
(Head)
the 191

Date of issue 4.2.20

Signed by Mr. H.V. Ramaswami

Section mc
File No. 420-19
Serial No. 2

No. R8728 & 4220

To the Deputy Comr, Coimbatore

Sir,

With reference to your letter No Reg 465 mc /18-19 dt 11.19 reporting the proposal of the Municipal Council of Dharapuram to levy a toll on carts laden with "bricks and earth" manufactured in a valuable site in an important place on the Cart road from Dharapuram to Kadathanallur for constructing a Cart-road for the use of the Inspection and requesting that necessary orders may be passed by Govt with a view to such toll on the carts being authorised for better purposes as such, I am directed to state that as the resolution of the Municipal Council to give away the toll has been

over

Govt are taking steps to remedy on the reps the defect (noted above) at an early date

Dr Secy, Rly Bd

Dr Secy, Rly Bd

List of enclosures-

Copied in

Exd.

G R. S III—1] 1919

GENERAL AND REVENUE SECRETARIAT

(Mail)

NOTES

File No 146 19

FILE HEADING

Unauthorized grant of a site by a private person in the Davangere Town

From The Deputy Comr, Chitaldrug

No. Rly 466 14 / 18-19 Dated 21-11-19 Received 23-11-19

Diary No. 14611 | Enclos 1 Pg & Var papers Spare Copies | Serial No 1

BRIEF ABSTRACT OF LETTER

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NOTES AND ORDERS

rec'd briefs from Asst Secy in refce being received, on 24/11/19

A

1 The facts of the case are —

Mr M Shadakshariappa, merchant, Davangere (also Municipal Councillor & District Board member) h applied on 1-6-1916 for the grant of a site (S nos 21 & 22) on Bangalore-Shimoga road at a Concession rate for

NOTES—First Sheet